

RM 8577

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May 3, 1995

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MAY - 8 1995

The Honorable Claire Mack
Mayor
Department of Community Development
330 West 29th Avenue
San Mateo, California 94403

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: Cellular Telecommunications Industry Association's Petition to
Preempt State and Local Zoning Regulations

Dear Mayor Mack:

Thank you very much for your letter about the petition filed by the Cellular Telecommunications Industry Association (CTIA). This petition asks the Commission to begin a rule making proceeding to preempt state and local regulation of tower siting for commercial mobile radio service providers, such as cellular and personal communications service (PCS) companies. I am very interested in this issue, and welcomed the opportunity to hear your thoughts on it.

I certainly understand your concerns about the CTIA petition and its impact on the role of local jurisdictions in the cell siting process. Traditionally, cell siting issues are handled at the local level. By and large, this situation has been appropriate, given that zoning and land use issues involve uniquely local concerns, such as aesthetics and compliance with local building codes or other health and safety codes. I believe local authorities should continue to play a key role in these decisions.

However, as the demand for sites for wireless carriers continues to mushroom, I am also concerned about the ability of wireless providers to build out their networks without undue delay. There are many benefits to having national or regional wireless communications systems -- emergency communication abilities are enhanced, and people use wireless communications to become more efficient and productive. Further, new PCS licensees are paying the U.S. treasury billions of dollars for their licenses, which are regional and national in nature. I think it's fair for the federal government to ensure that these licensees are able to build their facilities throughout their service areas in a timely fashion. Moreover, some carriers complain that some localities may like to put a moratorium on all wireless cell sites in

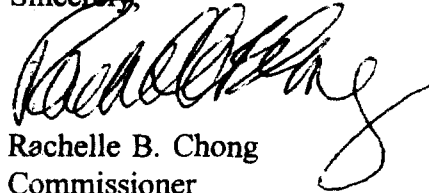
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certain geographic areas. For this reason, I believe the Commission also has an important role to play in this area to ensure ubiquitous and broad coverage without undue delay.

Having said that, I have not yet made any decisions about the CTIA petition. I believe that the Commission must balance the federal interest in ensuring the development of a competitive, efficient mobile services infrastructure against the legitimate interests of local governments in regulating zoning and land use matters. I am open to considering all options available to the Commission to strike the appropriate balance, and hope that you will work with us to find an acceptable solution for both our concerns.

I appreciate your taking the time to share your concerns with me. I will certainly keep them in mind as we consider the CTIA petition.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rachelle B. Chong', written over the printed name and title.

Rachelle B. Chong
Commissioner

DEPARTMENT OF COMMUNITY DEVELOPMENT

330 West 20th Avenue
San Mateo, California 94403-1388



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April 12, 1995

Commissioner Rachelle Chong
Federal Communication Commission
1919 M Street, N.W.
Washington, DC 20036

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COMMISSIONER
RACHELLE B. CHONG
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RE: Cellular Tower Zoning Preemption

Dear Ms. Chong:

It has come to my attention that the cellular phone industry has petitioned the Federal Communications Commission to preempt state and local zoning control over the placement and siting of cellular towers be preempted. The City of San Mateo is opposed to such preemption and I am writing to urge that the FCC deny the petition and continue to empower local land use control over cellular utilities.

The City of San Mateo believes that due to expansion of the cellular industry, the need for additional towers and transmission devices will accelerate. Without local permitting control, land use considerations important to the citizens of this community will not necessarily be taken into account by cellular utilities as they establish new facilities. Furthermore, our land use and zoning requirements are not designed to thwart cellular development, as alleged in the petition (no facilities have ever been denied in the City of San Mateo), but rather are intended to assure that facility siting is does not impact the public health, safety and welfare and is consistent with the community's vision for its physical development.

In addition, in an era where the federal government is generally moving to provide greater empowerment for State and local decisions regarding local issues, moving jurisdiction for utility siting and appeals to Washington D.C. would fail to accommodate local government and citizen input.

Sincerely,

Claire Mack
Claire Mack, Mayor

cc: City Council
Arne Croce, City Manager
Mr. Ira R. Alderson, Jr., CPUC Safety and Enforcement Division